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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,749	03/29/2004	Robert J. Simmons	J-BSIM.1013	5475
56703 7590 04/16/2007 ROBERT D. VARITZ, P.C. 4915 SE 33RD PLACE PORTLAND, OR 97202			EXAMINER LUPINO, GINA M	
			ART UNIT	PAPER NUMBER
			3652	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/812,749

Applicant(s)

SIMMONS, ROBERT J.

Examiner

Gina M. Lupino

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**I. Cancelled Claims**

1. Claims 3, 4, and 6 have been cancelled and therefore withdrawn from consideration.

**II. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over GOODACRE

(U.S. Patent No. 3,268,033) in view of CERNY (U.S. Patent No. 5,644,111).

- 1.1. With respect to claims 1 and 7, GOODACRE discloses a machine-liftable and maneuverable, open cage-like load transporter (see Figure 1) for handling and promoting installation-site delivery of building-frame beam components during the construction of a plural story structural building frame with a fork-receiving side and an opposite, load lateral-delivery side, with:

1.1(a) A worker occupancy space 44 fully occupying the inside of a cage-like structure defined by a horizontal floor structure 30, 31 joined to the upwardly extending, open, and at least partially floor-perimeter 38 wall structure 32, 36, 42, and

1.1(b) Disposed substantially directly overhead said floor and wall structures and above the worker volume, generally upwardly facing, open, horizontal, elongate, load-support deck structure 35 having one end adjacent the mentioned load-lateral-delivery side, and an opposite end defined by upwardly extending load-stop riser structure, the deck-

Art Unit: 3652

structure being adapted for the overhead capable of supporting and load-carrying of all elongate building-frame beam components, which are to be handled by the transporter,

1.1(c) The deck structure 35 having an open framework

1.1(d) See Figures 1-5 and column 3, lines 19-25, 44-48.

1.2. With respect to claim 7, GOODACRE teaches the transporter, as discussed above, where the worker occupancy space is defined by a horizontal floor structure that extends over the entire horizontal expanse of the cage-like structure, which is joined to the wall structure, as discussed above. See Figure 1.

1.3. However, GOODACRE fails to teach the deck structure is open to the underlying worker occupancy volume.

1.4. CERNY teaches an elevator with an opening 23 on the ceiling of the elevator cab. Therefore, it would have been obvious to one of ordinary skill in the art to modify the ceiling deck structure of GOODACRE with an opening or hatch to facilitate a worker's access to the area above the worker occupancy volume 44.

2. Claims 2, 5, 8-9, are rejected under 35 U.S.C. 103(a) as being unpatentable over GOODACRE (U.S. Patent No. 3,268,033) in view of THOMAS (U.S. Patent No. 2,639,051), and CERNY (U.S. Patent No. 5,644,111).

2.1. With respect to claims 2 and 8, GOODACRE, as modified by CERNY, discloses a transporter, as discussed above, with a building-frame-facing side and a deck structure 35, but fails to teach a deck structure equipped adjacent its one end with a deployable lateral extension which can be extended and withdrawn laterally outwardly from and inwardly toward the transporter's load-lateral-deliver side to form, when extended outwardly, a co-planar lateral extension of the load-support deck structure.

2.1(a) THOMAS teaches a transporter 10 with a deployable lateral extension 16, 18 which can be extended and withdrawn outwardly inwardly with respect to the transporter's building load-lateral-deliver side capable of forming a co-planar lateral extension of the load-support deck structure. See Figures 1, 2, 4, 8, 22, 23. Therefore, it would have been obvious to one of ordinary skill in the art to further modify GOODACRE with the deployable lateral extension of THOMAS in order to accommodate the transport and delivery of a building-frame beam component toward an installation site.

2.2. With respect to claims 5 and 9, GOODACRE, as modified, discloses a transporter, as discussed above,

2.2(a) Designed with the capability of handling generally T-shaped beam components that each may include angularly intersecting and interconnected elongate cap and stem sub-components, and

2.2(b) The deck structure 35 has a pair of elongate, laterally spaced beam-like elements 36 (See Figure 5) whose long axes extend from transporter's fork-receiving side toward its load-lateral delivery side (See Figures 1-5),

2.2(c) Which pair of beam-like elements 36 are capable of supporting cap sub-component in a T-shaped beam component with cap sub-component's long axis extending generally transversely of the long axes of the beam-like elements 36 in the pair, and

2.2(d) Closely adjacent the load-stop riser structure,

2.2(e) However, GOODACRE, as modified, fails to teach a lateral extension has an elongate beam-like cross-piece which,

2.2(e)(i) with the extension deployed and extending outwardly adjacent the transporter's load-lateral-delivery side,

Art Unit: 3652

2.2(e)(ii) is disposed to support the stem sub-component in a T-shaped beam component with the long axis of that stem sub-component extending generally transversely relative to the long axis of the cross-piece.

2.2(f) THOMAS teaches a transporter 10 with a deployable lateral extension 16, 18 which

2.2(f)(i) can be extended outwardly adjacent the transporter's 10 load-lateral-delivery side

2.2(f)(ii) and is capable of supporting a stem sub-component in a T-shaped beam component with the long axis of that stem sub-component extending generally transversely relative to the long axis of the cross-piece. See Figures 1, 2, 4, 8, 22, 23

2.2(g) Therefore, it would have been obvious to one of ordinary skill in the art to further modify GOODACRE with the lateral extension of THOMAS in order to support a T-shaped beam component.

### **III. Response to Applicant's Arguments**

**Applicant's arguments entered February 8, 2007 have been fully considered.**

**1. Applicant's argument with respect to the rejection of claims 1, 2, and 5 under 35 U.S.C. 103(a) are not persuasive.**

**1.1. With respect to claim 1, Applicant argues the cited reference is missing features recited by independent claim 1. The Examiner disagrees with the Applicant.**

1.1(a) With respect to claim 1, Applicant argues the Examiner has mischaracterized element 30 of GOODACRE. However, the Examiner disagrees with the Applicant. The Examiner referred to the "30" to denote the cage-like load transporter, as a whole, because in Figure 1, "30" points to the cage-like section of the transporter. However, if Applicant finds this denotation is unclear, the Examiner directs the Applicant's attention

to Figure 1 of GOODACRE, as a whole, which clearly shows an open cage-like transporter. Thus, GOODACRE clearly teaches this limitation of claim 1.

1.1(b) With respect to claim 1, Applicant argues the elements 34 and 35 of GOODACRE are not used to support anything. However, the Examiner disagrees with the Applicant. Figure 1 of GOODACRE plainly shows the features 34 and 35 are members of the cage's support structure, or "load-support deck structure", as expressly recited by claim 1. Thus, GOODACRE clearly teaches this limitation of claim 1.

1.1(c) With respect to claim 1, Applicant argues the cage of GOODACRE fails to teach the limitation of claim 1 because GOODACRE teaches a cage that is permanently attached to a lift truck and only the pallet may selectively be removed and captured. However, this argument is irrelevant. Claim 1 does not require the cage be selectively removed and attached to a lift truck. Limitations from the specification will not be read into claims. Thus, absent any additional claim language, GOODACRE teaches all limitations of claim 1, as written.

1.1(d) With respect to claim 1, Applicant argues GOODACRE fails to teach a load-support deck structure, that is upwardly facing, open, elongate, directly over the floor and wall structures, and above the worker volume and the roof is not intended to carry loads. In a safe manner. However, the Examiner disagrees with the Applicant.

1.1(d)(i) Figure 1 of GOODACRE clearly shows a deck structure that faces upward with respect to the ground. Furthermore, this deck structure is elongate because it is rectangular. In addition, this deck structure is over the floor and wall structures, as discussed above. In addition, this deck structure is capable of supporting a load. There is no additional language recited in claim 1 indicating the type of load that the overheard deck structure must be

capable of supporting. Claim 1 merely requires a "load-support deck structure". Thus, GOODACRE clearly teaches this limitation of claim 1.

1.1(d)(ii) CERNY shows a support structure with a hatch on a ceiling of a compartment, as discussed above. Therefore, it would have been obvious to one of ordinary skill in the art to modify the overhead deck structure of GOODACRE with an opening in order to provide an opening in the overhead deck structure, as required by claim 1. Thus, GOODACRE, in view of CERNY, teaches this limitation of claim 1.

1.1(e) With respect to claim 1, Applicant argues GOODACRE, in view of CERNY, fails to teach a way for an operator to get a load carried on the deck structure because the hatch of CERNY is not upwardly facing, open, and horizontal. However, the Examiner disagrees with the Applicant. Figure 1A of CERNY shows a hatch, as discussed above, that is horizontal, faces upward, and is capable of being opened and closed. Thus, GOODACRE, in view of CERNY, clearly teaches this limitation of claim 1.

1.1(f) With respect to claim 1, Applicant argues GOODACRE fails to teach an upwardly extending load-stop riser structure. However, the Examiner disagrees with the Applicant. Figure 1 of GOODACRE shows a structure with a mechanism that stops the load from continually rising, infinitely upward, and that this structure extends upward with respect to the ground. Thus, GOODACRE clearly teaches this limitation of claim 1, as written.

1.1(g) With respect to claim 1, Applicant argues the cited references do not teach a deck structure that is open to the underlying worker occupancy volume. However, the Examiner disagrees with the Applicant. Figure 1 of GOODACRE shows a deck structure, as discussed above. Figure 1A of CERNY teaches a hatch in the overhead part of a structure, as discussed above. Thus, GOODACRE, in view of CERNY,



teaches the deck structure, as recited by claim 1, with an opening in the overhead part of the structure that is open to the underlying worker volume, as discussed above.

**1.2. With respect to claim 2, Applicant argues the cited reference is missing features recited by claim 2. The Examiner disagrees with the Applicant.**

1.2(a) With respect to claim 2, Applicant argues the cited references fail to teach or suggest a deployable lateral extension that is co-planar with the load-support deck structure. However, the Examiner disagrees with the Applicant. Claim 2 only requires a co-planar lateral extension of the load-support deck structure. THOMAS clearly teaches an extension that can be deployed laterally from the deck structure, as discussed above. See Figures 1, 2, 4, 8, 22, 23. Claim 2 does not recite any further limitation indicating which part of the deck structure with which the lateral extension must be coplanar. Thus, GOODACRE, in view of THOMAS, clearly teaches this limitation of claim 2, as written.

1.2(b) With respect to claim 5, Applicant argues the cited references fail to teach or suggest a pair of elongate, laterally spaced beam-like elements that extend along the length of the transporter because the beams of GOODACRE cannot extend horizontally between the ends of the transporter. However, the Examiner disagrees with the Applicant. Claim 5 contains no further express limitations regarding the relative terms "extend" and "the length of the transporter". Figure 1 of GOODACRE clearly shows a pair of beam-like elements that are elongate and laterally spaced with respect to one another. Furthermore, Figure 1 of GOODACRE shows these beams extend along a length of the transporter. Thus, GOODACRE teaches these limitations of claim 5, as written.

**IV. Conclusion**

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6557. The examiner can normally be reached on 9:00am - 5:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
5. GML

  
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SUPERVISORY PATENT EXAMINER